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PTO/SB/50 (08-00)

Approved for use through 12/30/2000. OMB 0651-0033

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REISSUE PATENT APPLICATION TRANSMITTAL

jc922 U.S. PTO
09/695160
10/24/00

Address to:

Assistant Commissioner for Patents
Box Reissue
Washington, DC 20231

Attorney Docket No.	560-027
First Named Inventor	Bardisbanyan
Original Patent Number	5,765,398
Original Patent Issue Date (Month/Day/Year)	6/16/98
Express Mail Label No.	EL424709617US

APPLICATION FOR REISSUE OF:

Utility Patent

Design Patent

Plant Patent

(Check applicable box)

APPLICATION ELEMENTS (37 CFR 1.173)

- Fee Transmittal Form (PTO/ SB/ 56)
(Submit an original, and a duplicate for fee processing)
- Applicant claims small entity status. See 37 CFR 1.27.
- Specification and Claims in double column copy of patent format (amended, if appropriate)
- Drawing(s) (proposed amendments, if appropriate)
- Reissue Oath/Declaration (original or copy)
(37 C.F.R. § 1.175) (PTO/SB/51 or 52)
- Original U.S. Patent currently assigned?

 Yes No

(If Yes, check applicable box(es))

Written Consent of all Assignees (PTO/SB/53)
 37 C.F.R. § 3.73(b) Statement Power of Attorney
(PTO/SB/96)

ACCOMPANYING APPLICATION PARTS

- Statement of status/support for all changes to the claims. See 37 CFR 1.173 (c).
- Original U.S. Patent for surrender
 - Ribboned Original Patent Grant
 - Statement of Loss (PTO/SB/55)
- Foreign Priority Claim (35 U.S.C. 119) (if applicable)
- Information Disclosure Statement (IDS)/PTO-1449 Copies of IDS Citations
- English Translation of Reissue Oath/Declaration (if applicable)
- Preliminary Amendment
- Return Receipt Postcard (MPEP 503)
(Should be specifically itemized)
14. Other:
.....

15. CORRESPONDENCE ADDRESS

Customer Number or Bar Code Label or Correspondence address below
(Insert Customer No. or Attach bar code label here)

Name	Anna Vishev, Esq.			
	Levisohn, Lerner, Berger & Langsam			
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NAME (Print/Type)	Anna Vishev, Esq.	Registration No. (Attorney/Agent)	45,018
Signature	Anna Vishev	Date	10/24/00

Burden Hour Statement: This form is estimated to take 0 2 hours to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Box Reissue, Washington, DC 20231.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

REISSUE APPLICATION FEE TRANSMITTAL FORM				Docket Number (Optional) 560.027				
Claims as Filed - Part 1								
Claims in Patent		Number Filed in Reissue Application	(3) Number Extra	Small Entity		Other than a Small Entity		
				Rate	Fee	Rate	Fee	
(A) 27	Total Claims (37 CFR 1.16(j))	(B) 33	**** 6 = x \$ 9 = 54	or	x \$ _____ =			
(C) 1	Independent claims (37 CFR 1.16(i))	(D) 3	* = x \$ 40 =		x \$ _____ =			
Basic Fee (37 CFR 1.16(h)) \$ 355								
Total Filing Fee \$ 409				OR				
Claims as Amended - Part 2								
	(1) Claims Remaining After Amendment		(2) Highest Number Previously Paid For	(3) Extra Claims Present	Small Entity		Other than a Small Entity	
					Rate	Fee	Rate	Fee
Total Claims (37 CFR 1.16(j))	***	MINUS	**	* = x \$ _____ =	x \$ _____ =			
Independent Claims (37 CFR 1.16(i))	***	MINUS	*****	= x \$ _____ =		x \$ _____ =		
Total Additional Fee \$				OR				
<p>* If the entry in (D) is less than the entry in (C), Write "0" in column 3.</p> <p>** If the "Highest Number of Total Claims Previously Paid For" is less than 20, Write "20" in this space.</p> <p>*** After any cancellation of claims.</p> <p>**** If "A" is greater than 20, use (B - A); if "A" is 20 or less, use (B - 20).</p> <p>***** "Highest Number of Independent Claims Previously Paid For" or Number of Independent Claims in Patent (C).</p>								
<p><input checked="" type="checkbox"/> Applicant claims small entity status. See 37 CFR 1.27.</p> <p><input checked="" type="checkbox"/> Please charge Deposit Account No. _____ in the amount of _____. A duplicate copy of this sheet is enclosed.</p> <p><input checked="" type="checkbox"/> The Commissioner is hereby authorized to charge any additional fees under 37 CFR 1.16 or 1.17 which may be required, or credit any overpayment to Deposit Account No. 02-2105. A duplicate copy of this sheet is enclosed.</p> <p><input checked="" type="checkbox"/> A check in the amount of \$ 409.00 to cover the filing / additional fee is enclosed.</p> <p><input type="checkbox"/> Payment by credit card. Form PTO-2038 is attached.</p>								
<p>WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.</p> <p>I hereby certify that this correspondence is being deposited with the U.S. Postal Service as Express Mail, Label No. EL424709617US in an envelope addressed to the Commissioner of Patents and Trademarks, Washington, DC 20231, on October 24, 2000.</p> <p>LEVISSON, LERNER & BERGER By: Ann Marie Hunter</p>								
10/24/00				<p>Signature of Applicant, Attorney or Agent of Record</p> <p>Anna Vishev</p> <p>Typed or printed name</p>				

METHOD AND APPARATUS FOR ASSEMBLING STONES IN JEWELRY

BACKGROUND OF THE INVENTION

The present invention relates to a new and novel method and apparatus for setting precious stones in jewelry rings or the like and is especially adapted to setting stones in round structural elements such as rings, bracelets, earrings, etc.

Stone setting is a highly-skilled art. In fine jewelry, precious and non-precious stones are often set in prongs formed in the jewelry. Skilled workers are required to perform such setting operations, and sometimes such stones can be damaged. Since labor is an expensive element in the manufacture of jewelry, various approaches have been employed to simplify the assembly of jewelry, especially fine jewelry employing precious and non-precious stones.

In the conventional prior practice, each stone is mounted in its own housing or prong setting. If two or more stones are to be connected, then mountings are linked in an article of jewelry.

An object of this invention is to provide an improved method of assembling colored, precious and semi-precious stones in gold and silver jewelry.

Another object of this invention is to simplify the assembly procedure so as to utilize workers of lower skill.

Yet another object of this invention is to provide such an apparatus and method which reduces the cost of assembly of gold and silver jewelry.

Other objects, advantages and features of this invention will become more apparent from the following description.

SUMMARY OF THE INVENTION

In accordance with the principles of this invention, precious and non-precious stones are set in round jewelry such as rings, earrings and the like by providing apertures in the surface of the jewelry onto which the stones are placed. The size of the apertures is smaller than the stone so that the stone nests in the aperture. The ring or jewelry structure located between the apertures provides a bearing surface and assembly members are pushed on top of each stone to create a downward pressure on the stones. Each assembly member comprises a projecting pin which passes through a corresponding small hole near the respective apertures. Cold soldering is employed to secure the projecting pin in place, thereby securing each stone in place in the jewelry. Different structural forms and shapes for the holding members are provided, and different stone shapes can be accommodated.

BRIEF DESCRIPTION OF THE DRAWINGS

FIG. 1 is an exploded perspective view of the elements of the present invention prior to assembly.

FIG. 2 is a side view of a channel member and corresponding tube into which the channel member is located to secure the same to the jewelry ring.

FIG. 3 is a sectional view taken along lines 3-3 of the ring of FIG. 1 with some of the elements already mounted in position;

FIG. 4 is another perspective view illustrating additional stones set in place pursuant to the method and apparatus of FIGS. 1 through 3.

FIG. 5 is an exploded perspective view of another embodiment of the present invention with a different type of jewelry ring, different stones and different assembly members.

FIG. 6 is a view of the assembly member and corresponding connectors used to assemble the stone as in to FIG. 5.

FIG. 7 is another exploded perspective view illustrating the first and second of said stones being attached to a ring in accordance with the method and apparatus of this invention.

FIG. 8 is a partial side sectional view along lines 8—8 of FIG. 7 with some of the elements already mounted in position;

FIG. 9 is a view similar to FIG. 8 showing the process of attaching stones to the ring.

DETAILED DESCRIPTION

FIGS. 1 through 4 illustrate a first embodiment of the present invention in which stones 10, preferably oval are secured to a ring 12 by assembly members 14. Each assembly member 14 resembles a tack and comprises a rounded semi-spherical head 16 connected to a center pin 18 which provides a general mushroom shape. The head 16 has a lower annular bearing surface 20.

The ring 12 is relatively thin-walled. Apertures 20 having the approximate shape of the stones to be set therein are drilled or otherwise formed by casting in the ring structure. The size of the apertures 20 roughly corresponds to slightly less than the size of the girdle 22 of each of the stones. To attach the stones to the ring, a first stone 10 is placed in corresponding aperture 20 and a first tack 14 is placed through a small hole 26 located in the ring near adjacent aperture 20. Pin 18 fits through hole 26. The stone 10 is set in the aperture 20, and tack or assembly member 14 is pressed down on top of the stone to hold the stone in place. A sleeve or tubing 28 is slid on the pin 16 under the ring. A cold soldering or fusion welding process is employed to attach pin 16 to sleeve 28. Such tool uses cold soldering and maybe a tool known as Tack 3 sold by ABI of 200 Jefferson Boulevard, Warwick, R.I. Cold fusion welding is a process which securely joins metal members together without the use of significant heat. By avoiding the use of significant heat in the assembly of jewelry elements, potential damage to the gemstones, gold and/or silver is avoided while the structural assembly is formed rigid.

In order to assemble three stones 10 as in FIG. 1, each of the tacks 14 is assembled sequentially one side to the other after a prior sequential tack is secured in place. Each stone 10 is located beneath the respective annular bearing surfaces of each respective pairs of said tacks on opposite ends of the stone. The cold soldering process is illustrated in FIGS. 1-4, and the size of the tube or sleeve is small enough so that it does not interfere with the wearing of the ring. As an alternate embodiment, each hole 26 may itself terminate in a downwardly projecting angular flange or sleeve into which the respective pin would fit, so as not to eliminate the need for a separate sleeve. As illustrated in FIG. 4, the stones 10 are readily, quickly and effectively secured to the ring to provide an attractive appearance without need for expert jewelers to assemble the stones. By eliminating the conventional prong approach, significant savings in time, effort and expense is realized.

FIGS. 5 through 9 illustrate yet another embodiment of the present invention in which the assembly members have a different shape and are used to secure octagon stones to a ring.

FIG. 5 illustrates a ring 50 having a head portion 51 adapted to receive three stones 52 between four assembly points 54. Each stone is an octagon and three recesses or apertures 56 are formed in the head of the ring 50. The assembly or connecting members 58 comprise pairs of

parallel support bars 60 of a downward U-shape with a pair of projecting pins 62 depending downward therefrom. The edges 64 of the connecting members straddle the outer sides 66 of the respective octagon marquis stones and are tightly pressed against the respective side edges 68 of the head 51, so as to form a bearing surface holding the stone firmly into holes 69 formed at assembly points 54. The holes 69 are formed as pieces between respective apertures 56 to receive the pairs of pins 62 formed in connecting member 58. Sleeves or tubes 70 are slid on pins 62 at the underside of each of the holes 69. As illustrated in FIG. 7, cold soldering is employed to attach each sleeve to each pin to securely assemble and hold the stone against the ring. During assembly, the connecting members 58 of FIGS. 5 through 9 are firmly pressed down on the respective stones pressing against the respective portion of the stones so as to hold the cold soldering is employed to fixedly connect the connecting members to the sleeves.

This invention has been described with reference to several embodiments. Other shapes or forms for the connecting members which bear against the stones holding them in the apertures in the rings may be employed. Further, the invention has been described with reference to jewelry rings, but other round jewelry structures such as bracelets or the like could employ the assembly apparatus and method of the present invention. Further, the assembly of precious and non-precious stones to jewelry may also be employed if the jewelry were flat and not round such as found in pendants or the like with the assembly of the stones still using the same pressure with the connecting members bearing against respective surfaces of the stones to hold the stones are in respective apertures as the cold soldering process is employed.

I claim:

1. A combination of a gem stone, an item of jewelry and a connecting member to secure said gemstone to said item of jewelry, said combination comprising:

said item of jewelry having a surface to which said gemstone is to be secured, said surface having a longer and shorter dimension which could be interchangeable if the surface is square. said gemstone having a profile which generally approximates the girdle of the gemstone,

said gemstone having opposite ends in the general direction of the longer dimension of said surface, said gemstone having an upper surface and a lower surface, said surface of said item of jewelry comprising an aperture having an opening similarly shaped and slightly smaller than the profile of said gemstone, said aperture having ends thereof corresponding to said ends of said gemstone so that said lower surface of said gemstone projects through said aperture.

said surface further comprising at least an additional aperture located adjacent an end of said gemstone.

a connecting member having a bearing surface which bears on the upper surface of said gemstone,

said connecting member comprising a pin extending downwardly through said additional aperture, a sleeve located below said surface.

said connecting member being pushed downwardly on said gemstone to hold said gemstone in place, said sleeve being cold soldered to said pin to secure said connecting member in place.

2. A combination as set forth in claim 1, wherein said item of jewelry is a ring.

3. A combination as set forth in claim 2, wherein said surface further comprises at least an additional aperture at either end of said gemstones.

4. A combination as set forth in claim 3, wherein said connecting member comprises a tack with a head and a central pin depending therefrom.

5. A combination as set forth in claim 3 wherein said connecting member comprises a bar which straddles the gemstone.

6. A combination as set forth in claim 3 wherein said connecting member comprises a bar which straddles the gemstone.

7. A combination as set forth in claim 5 wherein said connecting member comprises a pair of bars so as to have each respective bar bear upon a respective gemstone set next to each other.

8. A combination as set forth in claim 2 wherein said connecting member comprises a bar which straddles the gemstone.

9. A combination as set forth in claim 2 wherein said connecting member comprises a pair of bars so as to have each respective bar bear upon a respective gemstone set next to each other.

10. A combination as set forth in claim 2 wherein said gemstones are connected to form a row of gemstones.

11. A combination as set forth in claim 2, wherein said sleeve is separate from said connecting member and is slid on said connecting member beneath said surface.

12. A combination as set forth in claim 1, wherein said item of jewelry is a pendant.

13. A combination as set forth in claim 12 wherein said connecting member comprises a bar which straddles the gemstone.

14. A combination as set forth in claim 12 wherein said connecting member comprises a pair of bars so as to have each respective bar bear upon a respective gemstone set next to each other.

15. A combination as set forth in claim 12 wherein said gemstones are connected to form a row of gemstones.

16. A combination as set forth in claim 12, wherein said sleeve is separate from said connecting member and is slid on said connecting member beneath said surface.

17. A combination as set forth in claim 1, wherein said surface further comprises at least an additional aperture at either end of said gemstones.

18. A combination as set forth in claim 17, wherein said connecting member comprises a tack with a head and a central pin depending therefrom.

19. A combination as set forth in claim 17 wherein said connecting member comprises a bar which straddles the gemstone.

20. A combination as set forth in claim 17 wherein said connecting member comprises a pair of bars so as to have each respective bar bear upon a respective gemstone set next to each other.

21. A combination as set forth in claim 1 wherein said connecting member comprises a pair of bars so as to have each respective bar bear upon a respective gemstone set next to each other.

22. A combination as set forth in claim 1 wherein said gemstones are connected to form a row of gemstones.

23. A combination as set forth in claim 1 wherein said connecting member comprises a bar and said pin comprises a pair of pins, wherein said at least an additional aperture

comprises two apertures through which said pair of pins in said connecting member pass to secure said gemstone to said item of jewelry.

24. A combination as set forth in claim 1, wherein said sleeve is separate from said connecting member and is slid on said connecting member beneath said surface.

25. A combination as set forth in claim 1, wherein said sleeve is integrally formed from the undersurface of said surface of said item of jewelry.

26. A combination as set forth in claim 1, wherein said gemstone comprises an oval gemstone, said aperture com-

prises an oval shape, and said item of jewelry comprises a jewelry ring, wherein said apparatus connects a row of said oval gemstones onto the surface of said ring.

27. A combination as set forth in claim 1, wherein said stones comprise marquis stones, said item of jewelry comprises a jewelry ring, and said connecting members bear on the ends of said marquis stones to hold said stones in place on said jewelry ring.

* * * * *

J--28. A combination of a gemstone, an item of jewelry and a connecting member to secure said gemstone to said item of jewelry, said combination comprising: said item of jewelry having a surface to which said gemstone to be secured; said gemstone having at least one end, an upper surface, a lower surface, and a girdle in-between, said surface of said item of jewelry comprising an aperture having an opening similarly shaped and slightly smaller than the girdle of said gemstone so that said lower surface of said gemstone projects through said aperture; said surface of said item of jewelry further comprising at least one additional aperture located adjacent said end of said gemstone; said connecting member comprising a pin extending downwardly through said additional aperture,

said jewelry item;
said connecting member being pushed
downwardly on said gemstone to hold
said gemstone in place, said sleeve being
cold soldered to said pin to secure said
connecting member in place.

--29. A combination as set forth in claim
28, wherein said item of jewelry is a
pendant.

--30. A combination as set forth in claim
29, wherein said connecting member
comprises a bar which straddles the
gemstone.

--31. A combination as set forth in claim
28, wherein said item of jewelry is a ring.

--32. A combination as set forth in claim
31, wherein said connecting member
comprises a bar which straddles the
gemstone.

33. A combination of a gemstone , an

item of jewelry and a connecting member

to secure said gemstone to said item of

jewelry, said combination comprising:

said item of jewelry having a

surface against which said gemstone is

secured:

said gemstone having at least one

end, an upper surface, a lower surface,

and a girdle in-between, said surface of

said item of jewelry comprising an

aperture having an opening similarly

shaped and slightly smaller than the

girdle of said gemstone so that said lower

surface of said gemstone projects through

said aperture;

said surface of said item of

jewelry further comprising at least one

additional aperture located adjacent said

end of said gemstone;

said connecting member

comprising a pin extending downwardly

through said additional aperture;

said connecting member being
pushed downwardly on said gemstone to
hold said gemstone in place, said pin
being cold soldered to said item of
jewelry to secure said connecting member
in place.

United States Patent [19]

Bardisbanyan

[11] Patent Number: 5,765,398

[45] Date of Patent: Jun. 16, 1998

[54] METHOD AND APPARATUS FOR ASSEMBLING STONES IN JEWELRY

[75] Inventor: Vahran Bardisbanyan, Encino, Calif.

[73] Assignee: Marquesa, Inc., Van Nuys, Calif.

[21] Appl. No.: 740,851

[22] Filed: Nov. 4, 1996

[51] Int. Cl. 6 A44C 17/02

[52] U.S. Cl. 63/26; 63/28; 63/15

[58] Field of Search 63/26, 27, 28, 63/15; 29/10, 896.41, 896.411, 896.412, 455.1; 228/132, 120, 189

[56] References Cited

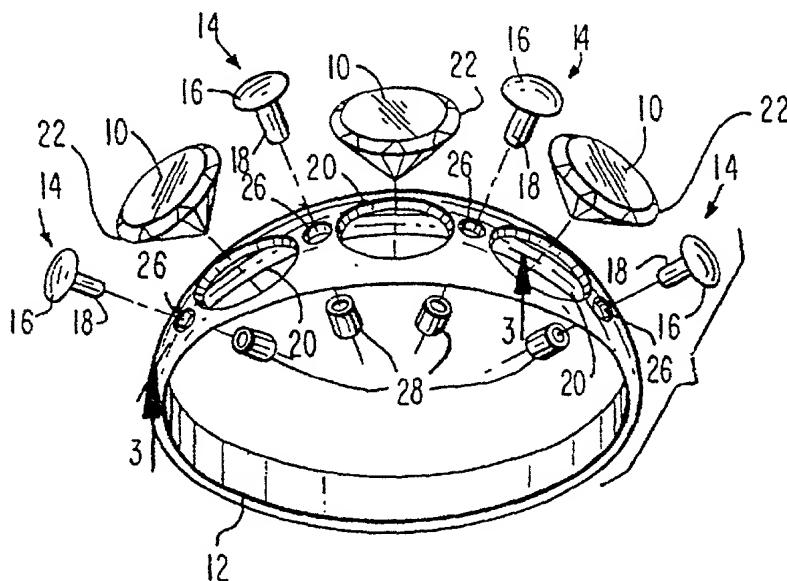
U.S. PATENT DOCUMENTS

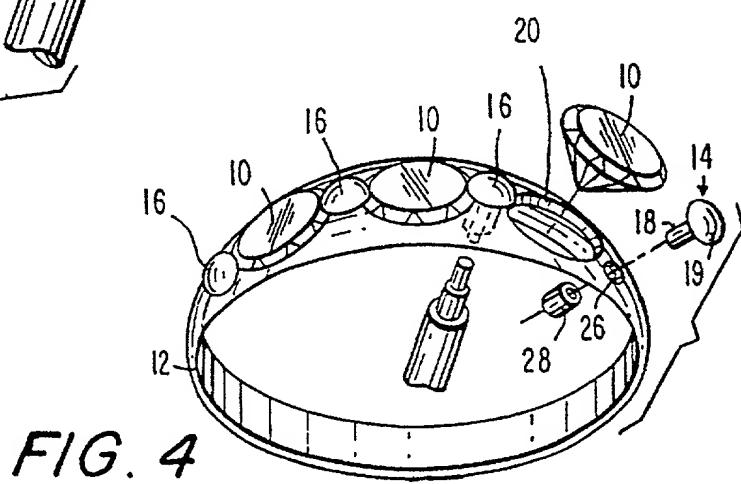
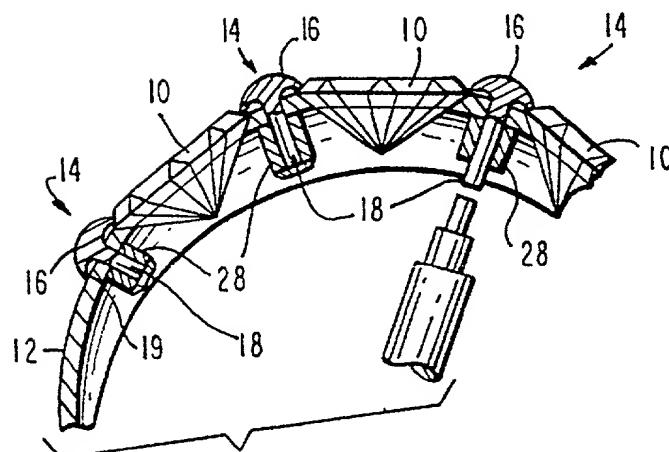
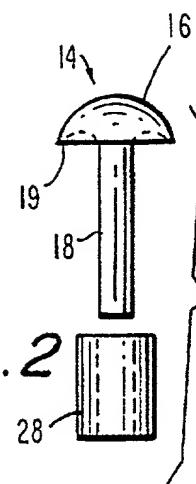
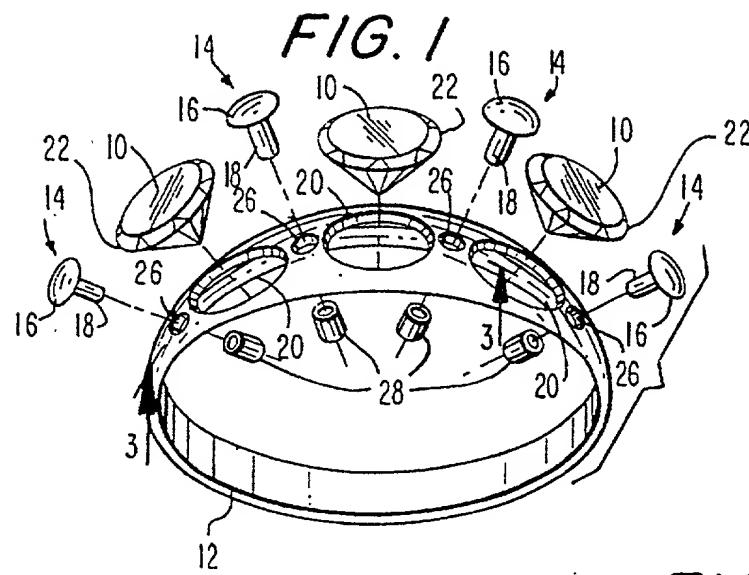
4,292,818 10/1981 Vitau 29/10
4,543,698 10/1985 Plantureux 29/10Primary Examiner—Kien T. Nguyen
Attorney, Agent, or Firm—Levisohn, Lerner, Berger & Langsam

[57] ABSTRACT

A combination of a connecting or assembly member, a gemstone and an item of jewelry in which the assembly or connecting member connects the gemstone to the jewelry is disclosed. The connecting member comprises a projecting pin which passes through a corresponding small hole in the surface of the jewelry. The gemstones are placed in apertures, and the size of the aperture is smaller than that of the stone so that the stone nests into the aperture. The connecting members include projecting pins which pass through a corresponding small hole near the respective apertures and cold soldering is employed to secure the projecting pin in place thereby securing each stone in place in the jewelry.

27 Claims, 3 Drawing Sheets





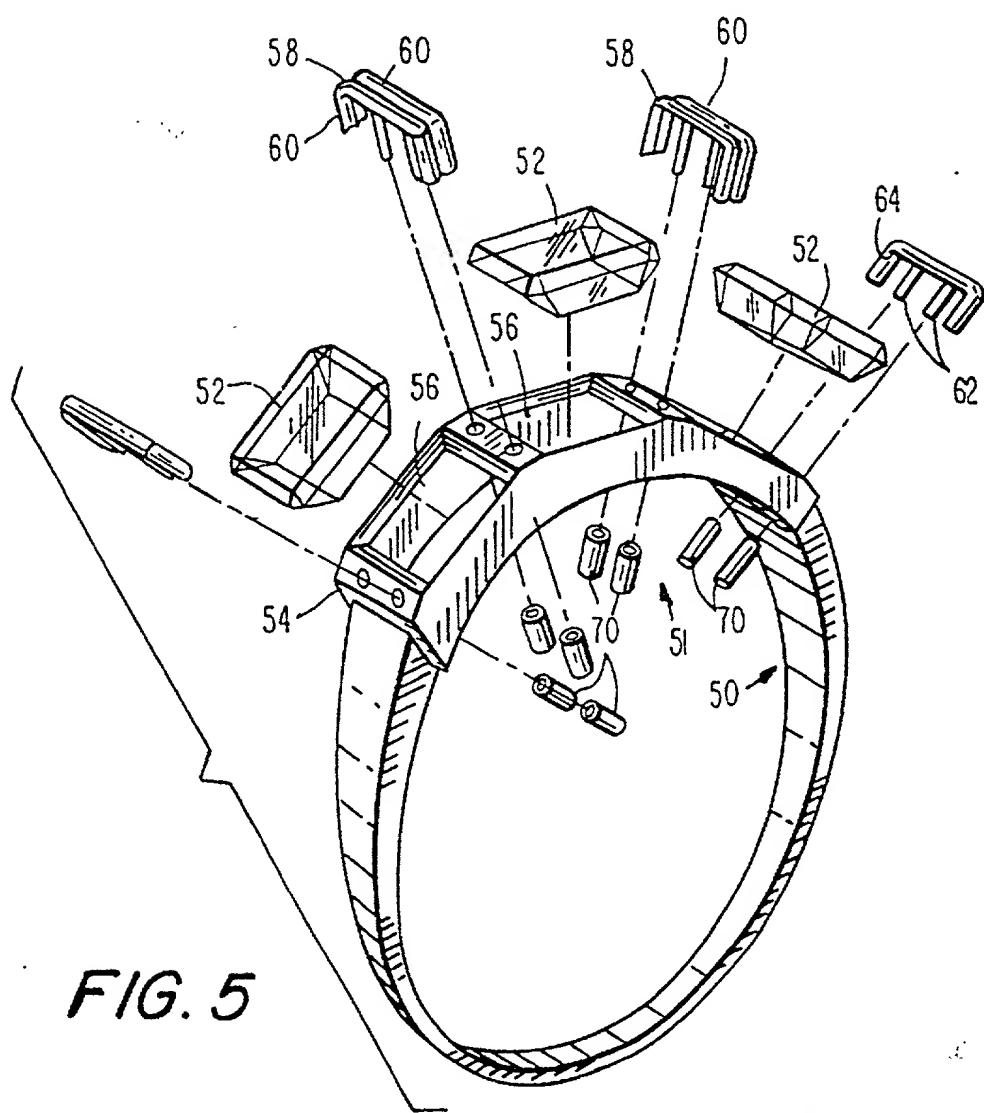


FIG. 5

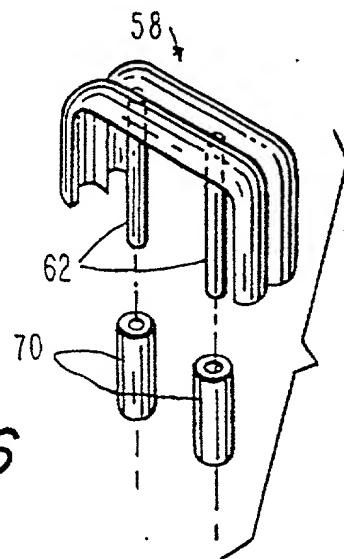


FIG. 6

FIG. 7

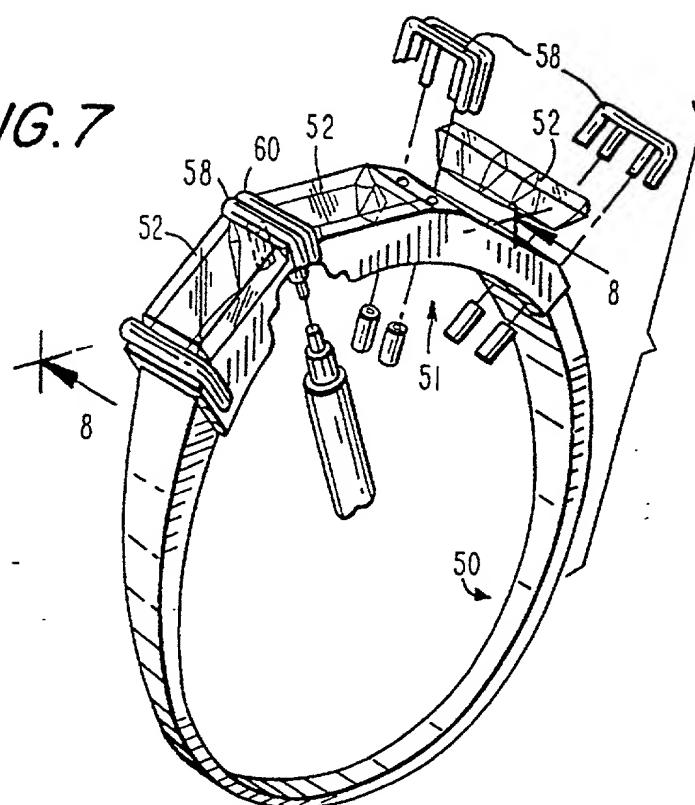


FIG. 8

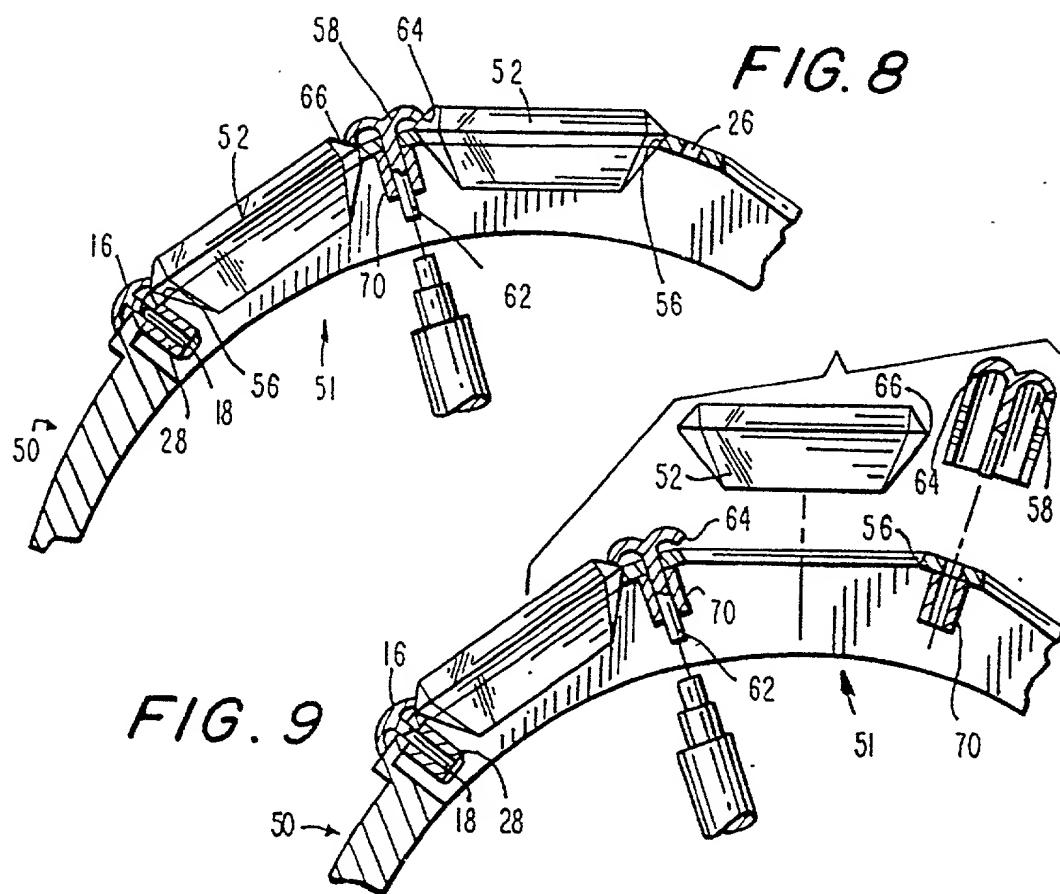


FIG. 9

Reissue Application No:

Patent No.:	5,765,398
Filed:	Nov. 4, 1996
Granted:	Jun. 16, 1998
Patentee:	Vahran Bardisbanyan
Assignee:	Marquesa, Inc.
Title:	<i>Method and Apparatus for Assembling Stones in Jewelry</i>
Attorney Docket No.:	560.027

Commissioner for Patents and Trademarks
Washington, D.C. 20231

REISSUE APPLICATION BY THE INVENTOR

Sir:

Kindly reissue the above identified patent with claims including original claims 1- 27, as issued in U.S. Patent No. 5,765,398 and, in addition, include newly added claims 28 - 33. Please note that the present reissue application is a continuation reissue application of the U.S. Reissue Patent Application No. 09/531,299, filed on March 20, 2000 (pending).

REMARKS

Applicant has requested a reissue patent in that the patent, as originally issued, is partially defective since the claims claimed less than applicant was entitled to in view of the prior art. More specifically, all of the claims, as issued, indicated that the surface of the jewelry item has a longer and a shorter dimension and that the gemstone has two opposite ends in the general direction of the longer dimension. Therefore, the issued claims required for the gemstone to be set in the direction of the longer dimension. Such limitation was not required by the prior art and Applicant's inventive contribution was broader than embodied in the issued claims. Therefore, the above mentioned limitations were eliminated from the claims 28-32, submitted with this

application.

Additionally, the issued claims have a limitation of connecting member comprising a pin and a sleeve, located underneath the jewelry item surface, the sleeve being cold soldered to the jewelry item to secure the connecting member. However, this limitation was likewise not required by the prior art and Applicant's inventive contribution was broader than embodied in the issued claims. Therefore, the above mentioned sleeve limitation was eliminated from the claim 33, submitted with this application. The basis for the presently submitted new claim 33 may be found in column 2, lines 49-53 of the original patent, wherein it is stated that the pin of the connecting member may be cold soldered directly to the jewelry item thereby eliminating the need for a sleeve.

Applicant has requested that claims 28 -33 be added to the claims as originally issued and that a new patent issue with all claims 1 - 33.

If the Examiner has any questions regarding this reissue application, the Examiner is encouraged to call the undersigned attorney for further discussion.

Respectfully Submitted



Anna Vishev
Registration No. 45,018

IN THE UNITED STATES PATENT & TRADEMARK OFFICE

jc922 U.S. PTO
09/695160

10/24/00

Reissue Application No:

Patent No.: **5,765,398**

Filed: **Nov. 4, 1996**

Granted: **Jun. 16, 1998** REISSUE

Patentee: **Vahran Bardisbanyan**

Assignee: **Marquesa, Inc.**

Title: ***Method and Apparatus for
Assembling Stones in
Jewelry***

Attorney Docket No.: **560.027**

Assistant Commissioner for Patents
Washington, D.C. 20231

PETITION TO MAKE SPECIAL BECAUSE OF ACTUAL INFRINGEMENT

(37 C.F.R. Section 1.102 and M.P.E.P. Section 708.02)

Applicant hereby petitions to make this application special because of actual infringement.

1. Accompanying material

Accompanying this petition is:

(a) a Statement of Facts in Support of Petition to Make Special Because of Actual

Infringement; and

(b) a Statement by Attorney in Support of Petition to Make Special Because of Actual

Infringement.

2. **Fee** (37 C.F.R. Section 1.17(i))

The fee required is to be paid by:

the attached check for \$130.00.

Charge account 02-2105 for any additional fees required.

A duplicate copy of this petition is attached.

Anna Vishev

Anna Vishev
Registration number 45,018
Levisohn, Lerner, Berger & Langsam
757 Third Avenue
New York, New York 10017
(212) 486-7272

IN THE UNITED STATES PATENT & TRADEMARK OFFICE

Reissue Application No:

Patent No.: **5,765,398**

Filed: **Nov. 4, 1996**

Granted: **Jun. 16, 1998** REISSUE

Patentee: **Vahran Bardisbanyan**

Assignee: **Marquesa, Inc.**

Title: ***Method and Apparatus for
Assembling Stones in
Jewelry***

Attorney Docket No.: **560.027**

Assistant Commissioner for Patents

Washington, D.C. 20231

**STATEMENT OF FACTS IN SUPPORT OF PETITION TO MAKE
SPECIAL BECAUSE OF ACTUAL INFRINGEMENT (M.P.E.P. §708.02)**

I, Vahran Bardisbanyan, with address at 6710 Valjean Avenue, Van Nuys, California 91406, USA, am the inventor in this case and make the following statements:

1. There is an actual infringement of this invention. The infringing combination of a jewelry item, a gemstone and a connecting member actually in use was sold by Target® department store on or about November of 1999. Target® is not our customer and we have not authorized any use or sale of our product. A photocopy of the infringing product is attached hereto as Exhibit A. The Exhibit A provides a picture of an earring design featuring a combination of a gemstone, a jewelry item and a connecting member, wherein the gemstone is secured by cold soldering a pin of the connecting member to a sleeve underneath the surface of

the jewelry item.

2. In my opinion Claims 28 and 33, as on file resulting from the attached reissue application, is infringed. Claims 28 and 33 read:

28. A combination of a gemstone , an item of jewelry and a connecting member to secure said gemstone to said item of jewelry, said combination comprising:
said item of jewelry having a surface to which said gemstone to be secured;
said gemstone having at least one end, an upper surface, a lower surface, and a girdle in-between, said surface of said item of jewelry comprising an aperture having an opening similarly shaped and slightly smaller than the girdle of said gemstone so that said lower surface of said gemstone projects through said aperture;
said surface of said item of jewelry further comprising at least one additional aperture located adjacent said end of said gemstone;
said connecting member comprising a pin extending downwardly through said additional aperture,
a sleeve located below said surface of said jewelry item;
said connecting member being pushed downwardly on said gemstone to hold said gemstone in place, said sleeve being cold soldered to said pin to secure said connecting member in place.

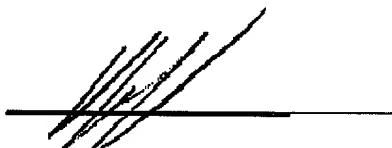
33. A combination of a gemstone , an item of jewelry and a connecting member to secure said gemstone to said item of jewelry, said combination comprising:
said item of jewelry having a surface against which said gemstone is secured;
said gemstone having at least one end, an upper surface, a lower surface, and a girdle in-between, said surface of said item of jewelry comprising an aperture having an opening similarly shaped and slightly smaller than the girdle of said gemstone so that said lower surface of said gemstone projects through said aperture;
said surface of said item of jewelry further comprising at least one additional aperture located adjacent said end of said gemstone;
said connecting member comprising a pin extending downwardly through said additional aperture;
said connecting member being pushed downwardly on said gemstone to hold said gemstone in place, said pin being cold soldered to said item of jewelry to secure said connecting member in place.

3. I have good knowledge of the pertinent prior art. All such material art was disclosed

and/or uncovered during prosecution of the original patent application resulted in issuance of U.S. Patent No. 5,765,398.

4. That I believe all the claims in this application as on file resulting from the attached reissue application are allowable.

Date: October 18, 2000



Signature

IN THE UNITED STATES PATENT & TRADEMARK OFFICE

Reissue Application No:

Patent No.: **5,765,398**

Filed: **Nov. 4, 1996**

Granted: **Jun. 16, 1998** REISSUE

Patentee: **Vahran Bardisbanyan**

Assignee: **Marquesa, Inc.**

Title: ***Method and Apparatus for
Assembling Stones in
Jewelry***

Attorney Docket No.: **560.027**

Assistant Commissioner for Patents

Washington, D.C. 20231

**STATEMENT BY PRACTITIONER IN SUPPORT OF PETITION TO MAKE
SPECIAL BECAUSE OF ACTUAL INFRINGEMENT (M.P.E.P. Section 708.02)**

I, Anna Vishev, an associate of Levisohn, Lerner, Berger & Langsam, 757 Third Avenue, New York, New York 10017, and having registration number 45,018 and telephone number (212) 486-7272, am the attorney for the applicant in this case and make the following statements:

1. I have made a rigid comparison of the alleged infringing product referred to in the accompanying declaration of Vahran Bardisbanyan with the claims of this application.
2. The product that I allege infringes this invention was first discovered to exist in or about November of 1999.

October 18, 2000

Anna Vishev

Anna Vishev

Registration number 45,018

Reissue Application No:	
Patent No.:	5,765,398
Filed:	Nov. 4, 1996
Granted:	Jun. 16, 1998
Patentee:	Vahram Bardisbanyan
Assignee:	Marquesa, Inc.
Title:	<i>Method and Apparatus for Assembling Stones in Jewelry</i>
Attorney Docket No.:	560.027

Commissioner for Patents and Trademarks
Washington, D.C. 20231

REISSUE APPLICATION BY THE INVENTOR,
OFFER TO SURRENDER PATENT

This is part of the application for a reissue patent based on the original patent identified below.

Name of Patentee Vahram Bardisbanyan

Patent Number 5,765,398 Date Patent Issued Jun. 16, 1998

Title of Invention Method and Apparatus for Assembling Stones in Jewelry

I am the inventor of the original patent.

I offer to surrender the original patent.

1. Filed herein is a certificate under 37 CFR 3.73(b)
2. Ownership of the patent is in the inventor, and no assignment of the patent has been made.

The written consent of all assignees owning an undivided interest in the original patent is included in this application for reissue.

Signature



Date 10/23/00

Typed or Printed Name Vahram Bardisbanyan

Reissue Application No:

Patent No.: **5,765,398**
Filed: **Nov. 4, 1996**
Granted: **Jun. 16, 1998**
Patentee: **Vahram Bardisbanyan**
Assignee: **Marquesa, Inc.**
Title: ***Method and Apparatus for
Assembling Stones in Jewelry***
Attorney Docket No.: **560.027**

Commissioner for Patents and Trademarks
Washington, D.C. 20231

CONSENT OF ASSIGNEE.
CERTIFICATE UNDER 37 CFR 3.73(b)

The assignee owning an undivided interest in the above original patent is Marquesa, Inc. and the assignee consents to the accompanying application for reissue.

The assignment of assignor's interest to Marquesa, Inc. is recorded on

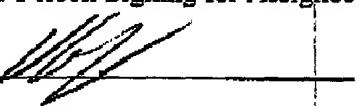
reel/frame number: **8242/0982** recordation date: **Nov. 04, 1996**

I hereby declare that all statements made herein of my knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. 1001 and that such willful false statements may jeopardize the validity of the application, any patent issued thereon, or any patent to which this declaration is directed.

Name of Assignee **Marquesa, Inc.**

Signature of the Person Signing for Assignee

Date


10/23/00

Typed or Printed Name and Title of the Person Signing for Assignee

V. Pres Vahram Bardisbanyan

Reissue Application No:	
Patent No.:	5,765,398
Filed:	Nov. 4, 1996
Granted:	Jun. 16, 1998
Patentee:	Vahran Bardisbanyan
Assignee:	Marquesa, Inc.
Title:	<i>Method and Apparatus for Assembling Stones in Jewelry</i>
Attorney Docket No.:	560.027

Commissioner for Patents and Trademarks
Washington, D.C. 20231

REISSUE APPLICATION DECLARATION BY THE INVENTOR

As a below named inventor, I hereby declare that:

My residence, post office address and citizenship are stated below next to my name.

I believe I am the original, first and sole inventor of the subject matter which is described and claimed in U.S. Patent Number 5,765,398, granted June 16, 1998, and for which a reissue patent is sought on the invention entitled Method and Apparatus for Assembling Stones in Jewelry, the specification of which

is attached hereto

was filed on _____ as reissue application number _____ / _____
and was amended on _____

I have reviewed and understand the contents of the above identified specification, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose information which is material to patentability as defined in 37 CFR 1.56.

I verily believe the original patent to be wholly or partly inoperative or invalid, for the reasons described below.

- by reason of a defective specification or drawing.
- by reason of the patentee claiming more or less than he had the right to claim in the patent.
- by reason of other errors

(REISSUE APPLICATION DECLARATION BY THE INVENTOR, page 2)

At least one error upon which reissue is based is described as follows:

Specifically, Claims 28-33 are now added and represent changes from the original claims 1- 27. The new claims 28-32 do not have the limitations that the surface of the jewelry item has a longer and a shorter dimension and that the gemstone has two opposite ends in the general direction of the longer dimension. Therefore, the new claims 28-32 eliminate the limitation of the gemstone being set in the direction of the longer dimension. The prior art does not require that limitation. Claim 33 eliminates the limitation of sleeve located below the jewelry item's surface for cold soldering the pin of the connecting member to this surface. Therefore, the new Claim 33 requires that the pin of the connecting member is cold soldered directly to the jewelry item. The basis for the presently submitted new claim 33 may be found in column 2, lines 49-53 of the original patent, wherein it is stated that the pin of the connecting member may be cold soldered directly to the jewelry item thereby eliminating the need for a sleeve. I desire to indicate herein that soon after the patent issued I first recognized that the original claims included the unnecessary limitation.

During the time of the patent's prosecution, I had been actively involved in seeking to commercialize the subject matter of the patent. In or about September-October of 1999, i.e., after the patent's issuance and while carefully reviewing the issued patent deed to determine scope of protection vis a vis possible infringers and potential licensees, I contacted my patent attorneys after reading the claim language. This was a result of trying to determine precisely the scope of the invention that I was granted by the U.S. Patent Office. I then first recognized the claims included the limitations that the surface of the jewelry item has a longer and a shorter dimension and that the gemstone has two opposite ends in the general direction of the longer dimension. I then inquired of my patent attorneys as to why this limitation was included. We discussed the relevant prior art and we jointly recognized that the limitations were unnecessarily restrictive and not required by the prior art. We discussed various options and it was then concluded, mutually, that a reissue application should be filed seeking to eliminate that limitation since it was not required by the prior art and since my inventive contribution was broader than embodied in the issued claims. A reissue application was then filed at the U.S. Patent and Trademark Office(Serial No. 09/531,299). Soon thereafter, I have reviewed the new claims submitted in the first reissue application and discovered that there was another unnecessarily restrictive limitation, namely the limitation of connecting member comprising a sleeve which is cold soldered to the surface of the jewelry item, which was not required by the prior art. A preliminary amendment to the first reissue

(REISSUE APPLICATION DECLARATION BY THE INVENTOR, page 3)

application was then promptly filed by my patent counsel. However, the above preliminary amendment was sent after the notice of allowance for the first reissue application was mailed by the Examiner. Consequently, I am filing this present Reissue Application as a continuation of the Reissue Application Serial No. 09/531,299 and include all of the desired claims into the present reissue application.

I believe that my invention is more broadly defined in Claims 28-33.

All errors corrected in this reissue application arose without any deceptive intention on the part of the applicant.

I hereby claim the benefit under U.S.C. §120 of any United States application(s), or §365(c) of any PCT International application designating the United States, listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States or PCT International application in the manner provided by the first paragraph of 35 U.S.C. §112, I acknowledge the duty to disclose to the United States Patent and Trademark Office all information known to me to be material to patentability as defined in Title 37 C.F.R. §1.56 which became available between the filing date of the prior application and the national or PCT International filing date of this application:

09/531,299
(Application Serial No.)

March 20, 2000
(Filing Date)

Pending
(Status)

As a named inventor, I hereby appoint the following attorneys and/or agents to prosecute this application and transact all business in the Patent and Trademark Office connected herewith.

Name(s)/Registration Number(s)

Peter L. Berger	Reg. No. 24,570
Andrew S. Langsam	Reg. No. 28,556
Morris S. Cohen	Reg. No. 37,407
Barry Negrin	Reg. No. 39,947
Marilyn S. Neiman	Reg. No. 44,966
Anna Vishev	Reg. No. 45,018

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PAGE 4
P.05

(REISSUE APPLICATION DECLARATION BY THE INVENTOR, page 4)

Direct all communications about the application to:

Anna Vishev
LEVISSON, LERNER, BERGER & LANGSAM
757 Third Avenue, Suite 2400
New York, NY 10017

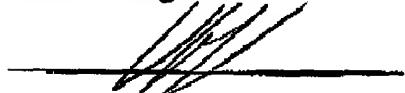
Telephone: (212)486-7272 Fax: (212)486-0323

I hereby declare that all statements made herein of my knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. 1001 and that such willful false statements may jeopardize the validity of the application, any patent issued thereon, or any patent to which this declaration is directed.

Full name of sole or first inventor:

Vahram Bardisbanyan

Inventor's Signature:



Date:

10/23/00

Residence:

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